



PRESS RELEASE

House Armed Services Committee

Floyd D. Spence, Chairman

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ARMED SERVICES COMMITTEE ADOPTS AMENDMENT TO ENCRYPTION BILL ENSURING THAT NATIONAL SECURITY, LAW ENFORCEMENT REMAIN PRIORITY

Today, the House Armed Services Committee adopted an amended version of legislation governing the export of encryption technology.

By a vote of 47 to 6, the committee passed a bipartisan substitute to H.R. 850, the Security and Freedom Through Encryption Act, that ensures the President maintains sufficient authority to protect law enforcement and national security interests while, at the same time, recognizing the fast pace of change in technology and the global marketplace.

"All members of Congress and particularly those of us on the Armed Services Committee, have a responsibility to protect the security of the American people and the nation's interests," said Committee Chairman Floyd Spence. "The committee's action today is intended to ensure that the federal government is not arbitrarily handicapped in its ability to protect public safety and national security. But it also recognizes the need for flexibility in this fast changing technological sector by giving the President the tools necessary to strike a balanced national policy while also protecting national security."

Spence and a number of other committee members cited testimony by senior government officials at the Departments of Defense, Justice and Commerce before the Armed Services Committee in recent weeks warning that if H.R. 850 was left unchanged, it would allow encryption exports that would pose a serious threat to U.S. military and intelligence assets and would cost lives on future battlefields.

Deputy Secretary of Defense John Hamre testified that H.R. 850 would lead to "a tidal wave that would crush your national security and law enforcement agencies that are protecting this country." With respect to the bill's national security implications, Hamre also testified that the "unregulated release of the strongest encryption is going to do one thing: put more troops' lives at risk. Period." Barbara McNamara, Deputy Director of the National Security Agency (NSA), testified that H.R. 850 will harm national security by making our job of providing critical, actionable intelligence to our leaders and military commanders difficult, if not impossible, thus putting our Nation's security at considerable risk."

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Attorney General Janet Reno stated that “the immediate decontrol of all export controls through the SAFE Act is not in the national interest.” And FBI Director Louis Freeh asserted that H.R. 850 “will harm law enforcement, will harm public safety, will harm national security, and lives will be lost...”

In recent Armed Services committee hearings, Spence also expressed concern that H.R. 850 would decontrol the export of encryption software and lift controls on the export of computers that contain encryption software, thereby undoing the tightened restrictions Congress mandated two years ago on the export of supercomputers to potentially dangerous end-users like China.

“I continue to believe that the unrestricted export of sophisticated encryption products, which is exactly what H.R. 850 would allow, carries serious national security risks for our nation,” said Spence. “In the context of the recent Cox committee report and growing concerns over the transfer of sophisticated U.S. technologies to countries of proliferation concern, H.R. 850’s decontrol of encryption and some computer exports makes no sense to me.”

The substitute amendment adopted by the committee was authored by Reps. Curt Weldon (R-PA), chairman of the committee’s Research and Development subcommittee, Norman Sisisky (D-VA), ranking member on committee’s Procurement subcommittee, and Rob Andrews (D-NJ).

Provisions of the committee approved Weldon-Sisisky-Andrews amendment would:

- Reaffirm authority of the President to control export of encryption production products for national security purposes.
- Establish statutory framework for export control of high performance encryption products.
- Require the President to establish a performance threshold for encryption. Encryption products that fall below the threshold would be permitted for export without a license. Encryption products above the threshold would require an export license for export.
- Require a one-time technical review for all encryption products proposed for export.
- Allow the President to establish certain sectors that would be subject to license free treatment of encryption products above the threshold, consistent with current U.S. policy.
- Require the President to review the adequacy of the performance threshold every six months.
- Establish an advisory board to review and advise the President on the foreign availability of encryption products.

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